

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DOWNUNDER WIRELESS, LLC

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Plaintiff,

v.

§ CIVIL ACTION NO. 2:09-CV-365-DF

SAMSUNG ELECTRONICS, AMERICA,
INC., CAL-COMP ELECTRONICS AND
COMMUNICATIONS CO., LTD.;

§ JURY TRIAL DEMANDED

Defendants.

[PROPOSED] DOCKET CONTROL ORDER

In accordance with the Rule 26(f) conference held by the parties on May 18, 2010 and the status conference held with the Court on the 2nd of June, 2010 it is hereby ORDERED that the following schedule of deadlines is in effect until further Order of this Court:

STEP	ACTION	RULE	AGREED DUE DATE
1	Initial Case Management Conference	P.R. 2-1; Fed. R. Civ. P. 26(f)	May 18, 2010
2	Patentee serves Disclosure of Asserted Claims and Preliminary Infringement Contentions of a reasonable number of representative claims	P.R. 3-1	June 14, 2010
3	Patentee makes Document Production Accompanying Disclosure	P.R. 3-2	June 14, 2010
4	Initial Disclosures	Fed. R. Civ. P. 26(a)(1)	June 21, 2010
5	Accused Infringers serve Preliminary	P.R. 3-3	August 2, 2010

STEP	ACTION	RULE	AGREED DUE DATE
	Invalidity Contentions		
6	Accused Infringers make Document Production Accompanying Preliminary Invalidity Contentions	P.R. 3-4	August 2, 2010
7	All parties make Exchange of Proposed Terms and Claim Elements for Construction	P.R. 4-1(a)	August 6, 2010
8	Patentee shall limit the number of asserted claims to no more than ten (10) and notify the accused infringers and the Court		August 11, 2010
9	All parties meet and confer to discuss list of Proposed Terms and Claim Elements for Construction		August 16, 2010
10	Deadline for early mediation at the Parties' request		August 26, 2010
11	All parties make Exchange of Preliminary Claim Constructions and Extrinsic Evidence	P.R. 4-2	August 20, 2010
12	All parties meet and confer to discuss Preliminary Claim Constructions and Extrinsic Evidence	P.R. 4-2(c)	August 25, 2010
13	All parties jointly file Joint Claim Construction and Prehearing Statement	P.R. 4-3	August 30, 2010
14	Deadline to join other parties without leave of Court, which shall be at least 60 days before the		October 1, 2010

STEP	ACTION	RULE	AGREED DUE DATE
	deadline for filing dispositive motions		
15	Deadline to file amended pleadings without leave of Court, which shall be at least 30 days before the deadline for filing dispositive motions		October 22, 2010
16	Completion of Claim Construction Discovery	P.R. 4-4	September 14, 2010
17	Patentee files opening claim construction brief	P.R. 4-5(a)	September 28, 2010
18	Accused infringers file responsive claim construction brief	P.R. 4-5(b)	October 15, 2010
19	Patentee files reply brief on claim construction	P.R. 4-5(c)	November 2, 2010
20	ONLY WITH LEAVE OF COURT Accused infringer files sur-reply brief on claim construction		November 12, 2010
21	Parties file Joint Claim Construction Chart	P.R. 4-5(d)	December 3, 2010
22	Pre-hearing Conference and technical tutorial if necessary		December 14, 2010
23	Claim Construction Hearing	P.R. 4-6	December 16, 2010
24	Court's Claim Construction Ruling		Subject to Court's scheduling and/or use of a technical advisor
25	Patentee makes Final Infringement Contentions	P.R. 3-6(a)	On or about 30 days after claim construction ruling
26	Accused Infringer serves Preliminary Unenforceability		On or about 40 days after claim construction

STEP	ACTION	RULE	AGREED DUE DATE
	Contentions		ruling
27	Accused Infringer makes Document Production Accompanying Preliminary Unenforceability Contentions		On or about 40 days after claim construction ruling
28	Accused Infringer makes Final Invalidity Contentions	P.R. 3-6(b)	On or about 50 days after claim construction ruling
29	Accused Infringer makes disclosure relating to willfulness	P.R. 3-8	On or about 50 days after claim construction ruling
30	Accused Infringer makes Final Unenforceability Contentions		On or about 60 days after claim construction ruling
31	Deadline for completion of all fact discovery, which shall be at least 90 days before the final pre-trial conference		June 1, 2011
32	Deadline for disclosure of expert testimony on issues for which a party bears the burden of proof	Fed. R. Civ. P. 26(a)(2); L.R. CV-26(b)	On or about 90 days after claim construction ruling
33	Deadline for disclosure of rebuttal expert testimony	Fed. R. Civ. P. 26(a)(2); L.R. CV-26(b)	On or about 120 days after claim construction ruling
34	Deadline for late mediation at the Parties' request		November 14, 2011
35	Deadline for completion of expert discovery		30 days after rebuttal expert testimony
36	Deadline for objections to other parties' expert		30 days after 35

STEP	ACTION	RULE	AGREED DUE DATE
	witnesses		
37	Deadline for filing dispositive motions, including motions on invalidity and unenforceability, which shall be at least 60 days before the initial pretrial conference		December 14, 2011
38	Deadline for filing all <i>Daubert</i> motions		December 14, 2011
39	Deadline for parties to make pretrial disclosures	Fed. R. Civ. P. 26(a)(3)	January 31, 2012
40	Patentee to provide to other parties its information for Joint Final Pretrial Order, Proposed Jury Instruction and Verdict Form		January 31, 2012
41	Defendants to Provide to Patentee their information for Joint Final Pretrial Order, Proposed Jury Instruction and Verdict Form		February 10, 2012
42	Parties to file Proposed Joint Final Pretrial Order, Proposed Jury Instructions, Joint Verdict Forms, and Motions in Limine. Prior to initial pretrial conference, parties shall confer with each other regarding the other party's Motion in Limine, deposition designations, and exhibits and shall submit to the Court in writing any objections		February 20, 2012

STEP	ACTION	RULE	AGREED DUE DATE
	they may have to the other party's Motions in Limine, deposition designations, and exhibits.		
43	Initial Pretrial Conference and hearing on Motions in Limine if required and hearing on objections to deposition designations and exhibits		Court will set at a later date.
44	Final Pretrial Conference before Judge David Folsom		March 5, 2012
45	Jury Selection before Judge David Folsom		

SIGNED this 23rd day of July, 2010.


 DAVID FOLSOM
 UNITED STATES DISTRICT JUDGE